

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**GUY SERRANO**

**Plaintiff,**

**v.**

**24 HOUR FITNESS USA, INC.**

**Defendant.**

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**CIVIL ACTION NO. \_\_\_\_\_**

**PLAINTIFF'S ORIGINAL COMPLAINT**

Plaintiff Guy Serrano ("Plaintiff" or "Serrano") files this Complaint against Defendant 24 Hour Fitness USA, Inc. as follows:

**PARTIES**

1. Plaintiff Guy Serrano is an individual residing in Collin County, Texas.
2. Defendant 24 Hour Fitness USA, Inc. ("24-Hour Fitness") is a California corporation with its principal place of business in California. It may be served with summons upon its registered agent, Corporation Service Company, 211 E. 7<sup>th</sup> Street, Ste. 620, Austin, Texas, 78701.

**JURISDICTION AND VENUE**

3. Original jurisdiction exists under 28 U.S.C. § 1332. This dispute is between citizens of different states and the amount in controversy exceeds seventy-five thousand dollars, exclusive of interest and costs.

4. This Court has personal jurisdiction over Defendant 24-Hour Fitness because it has engaged in business in this state and Plaintiff's claim arises out of an injury suffered at Defendant's premises in Frisco, Texas. Defendant also has continuous and systematic contacts with the State of Texas.

5. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. § 1391 because Plaintiff suffered an injury at Defendant's premises in Frisco, Texas, which is within the Sherman Division of the Eastern District of Texas.

#### **NATURE OF THE CASE**

6. This a premises liability case in which Plaintiff sues for personal injuries and exemplary damages arising out of an incident in which a worn cable snapped on one of 24-Hour Fitness' weight machines causing Plaintiff to suffer a severe head injury.

#### **FACTUAL BACKGROUND**

7. On or about June 13, 2016, Serrano visited the 24-Hour Fitness club located at 3865 Preston Road in Frisco, Texas. He was a member of the club and worked out there regularly.

8. While pulling down on a weight cable supporting 180 pounds of weight, the cable snapped causing Guy to slam a heavy metal handle into his head.

9. Guy suffered a severe closed head injury, a concussion, post-concussive syndrome and related ailments growing out of the head trauma.

**PREMISIS LIABILITY**

10. Plaintiff incorporates the prior factual allegations contained in this Complaint.

11. Defendant 24-Hour Fitness was the owner of or in possession and control of the premises at 3865 Preston Road in Frisco, Texas.

12. Serrano entered Defendant's premises as an invitee; that is, he entered in response to Defendant's invitation and for their mutual benefit.

13. A condition on Defendant's premises posed an unreasonable risk of harm. Specifically, Defendant failed to maintain, inspect, and repair its fitness equipment to ensure that it functioned properly and did not cause injury.

14. Defendant knew or should have known of the dangerous condition of its fitness equipment.

15. Defendant had a duty to use ordinary care to ensure that the premises did not present a danger to Serrano. This duty includes the duty to inspect and the duty to warn or to cure. Defendant breached the duty of ordinary care by:

- a. Failing to adequately the inspect the fitness equipment;
- b. Failing to adequately maintain the fitness equipment;
- c. Failing to adequately replace cable at appropriate intervals;
- d. Failing to create and maintain a log book detailing its maintenance and service of fitness equipment and cables;
- e. Failing to replace fitness cable even when they began showing signs of wear; and

- f. Failing to other acts as a reasonably prudent fitness club owner in maintaining a reasonably safe place to exercise.

16. Defendant's breach of these duties proximately caused injury to Plaintiff, which resulted in the following damages for which he now sues:

- a. Past and future medical expenses;
- b. Past and future lost earning capacity;
- c. Past and future mental anguish;
- d. Past and future physical pain; and
- e. Past and future physical impairment.

17. Plaintiff seeks damages in an amount far exceeding the jurisdictional minimum of \$75,000.

#### **EXEMPLARY DAMAGES**

18. Plaintiff incorporates the prior factual allegations contained in this Complaint.

19. Plaintiff's injury resulted from Defendant's gross negligence or malice, which entitles Plaintiff to exemplary damages under Texas Civil Practices & Remedies Code Section 41.003(a).

#### **JURY DEMAND**

20. Plaintiff demands a trial by jury.

**PRAYER**

WHEREFORE, Plaintiff Guy Serrano prays that Defendant 24 Hour Fitness USA, Inc. be cited to appear and answer and that Serrano have judgment against 24-Hour Fitness for all the relief he is entitled to recover including:

- a. Past and future medical expenses;
- b. Past and future lost earning capacity;
- c. Past and future mental anguish;
- d. Past and future physical pain;
- e. Past and future physical impairment;
- f. Prejudgment and post-judgment interest;
- g. Exemplary damages;
- h. Costs;
- i. General relief; and
- j. Such other and further relief, both at law and in equity, to which Plaintiff is entitled to recover.

Respectfully submitted,

**WICKES LAW, PLLC**

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**ATTORNEYS FOR PLAINTIFF  
GUY SERRANO**